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6 IN THE MATTER OF: :

7 EL CENTRO :

8 1819 14th St Ventures LLC:Case #16-251-00080

9 1819 14th Street NW :

10 License #84847 :

11 Retailer CR :

12 ANC 1B :

13 Simple Assault :

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2 BOARD MEMBERS PRESENT

3 NICK ALBERTI, BOARD MEMBER

4 JAMES SHORT, BOARD MEMBER

5 MIKE SILVERSTEIN, BOARD MEMBER

6 RUTHANNE MILLER, BOARD MEMBER

7

8 ALSO PRESENT:

9 ANTHONY HOWZE

10 STEPHEN O'BRIEN

11 KAZ OKOCHI

12 JOSHUA GRAY

13 ALEX CAWLEY

14

1 P R O C E E D I N G S

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3 CHAIRPERSON ANDERSON: The next matter on
4 our fact finding hearing is case #16-251-00080,
5 El Centro, DF License #84847. Will the parties
6 please approach and identify themselves for the
7 record, please?

8 MR. HOWZE: Anthony Howze, investigator.

9 MR. O'BRIEN: Stephen O'Brien for the
10 licensee. I'm accompanied by going from my left:
11 Kaz Okochi who is one of the board-approved
12 members of the -- board-approved principles of
13 the licensee; Joshua Gray who is the general
14 manager of the restaurant and Alex Cawley at the
15 far end is a vice president -- am I correct? --
16 vice president of the parent company of the
17 licensee.

18 CHAIRPERSON ANDERSON: Thank you, Mr.
19 O'Brien. I would like each person, though, to
20 just in their own voice do -- introduce -- in
21 their own voice to introduce themselves to us for
22 the record, please, sir.

1 MR. OKOCHI: My name is Kaz Okochi, and I'm
2 one of the management members of El Centro, DC.

3 MR. GRAY: My name is Joshua Gray, general
4 manager of El Centro.

5 CHAIRPERSON ANDERSON: Thank you.

6 MR. CAWLEY: My name is Alex Cawley and I'm
7 the regional vice president for Richard Sandoval
8 Restaurants.

9 CHAIRPERSON ANDERSON: All right, thank you.
10 We have this fact finding hearing because we
11 received a request from the chief of police, I
12 think, because there was an incident that
13 occurred and that there was injury but that no
14 one called MPD or 911, and so what I'll do is
15 I'll have the investigator, he can start off by
16 just giving us a background about what happened
17 and then we'll have a response from the
18 establishment.

19 MR. HOWZE: Okay, Sunday, March 27, 2016, a
20 simple assault occurred at El Centro located at
21 1819 14th Street Northwest. Investigation was
22 initiated as a result of MPD 251 received by

1 ABRA.

2 CHAIRPERSON ANDERSON: Hold on one minute,
3 please. Do we have any MPD officers regarding
4 this matter here? Can you please come forward
5 and identify yourself for the record, please?
6 Good afternoon, and your name for the record,
7 please?

8 MS. DAVIS: Billie Davis.

9 MR. HOWZE: Ms. Kimberly Suarez, Officer
10 Kimberly Suarez, submitted her 251 to ABRA on
11 April 18, 2016, and I'm just going to read what
12 she submitted. On Sunday, March 27, 2016, Victim
13 One reports that he was at El Centro nightclub,
14 located at 1819 14th Street. While at the listed
15 location the Victim reports that upon returning
16 from the restroom he observed a fight between his
17 two friends. Victim One also reports that he
18 observed an unknown male's friends rush into the
19 area to engage in the fight. Victim One reports
20 that he tried to break up the fight and security
21 guard put them all out of the nightclub. As they
22 were being thrown out of the nightclub, Victim

1 One reports that the fight started again outside
2 the club. Victim One states that he was trying
3 to get others to stay out of the fight at which
4 time Victim One reports that an unknown male then
5 stated something to his wife who was Witness One.
6 Victim One does not know what the unknown male
7 then stated to his wife. Victim One then stated
8 to the unknown male to relax and that that's his
9 wife, and he did not need to yell at her. Victim
10 One then looked toward Unknown Male's friend at
11 which time Victim One reports that an unknown
12 male punched him in the face. Victim One states
13 that he received a swollen and black eye, swollen
14 black right eye from the assault. Also, Victim
15 One reports that the side of his face was swollen
16 from the assault as well, and that was MPD
17 officer Kimberly Suarez's MPD 251 report. Now
18 I'll just get into my report.

19 CHAIRPERSON ANDERSON: Sure, go ahead, Mr.
20 Howze.

21 MR. HOWZE: Thursday, May 5, 2016 at 9:10
22 p.m. Investigator Howze visited El Centro to

1 conduct a regulatory inspection and to conduct an
2 interview with the establishment's ABC manager.
3 I spoke with Mr. Joshua Gray, which is the
4 general manager. Mr. Gray stated to Investigator
5 Howze that he was not the ABC manager the night
6 of the 27th of March and that Mr. Nikolai
7 Gurevitch was the ABC manager but Mr. Gray did
8 give Investigator Howze the incident report and
9 he also started the process to get Investigator
10 Howze the video footage from that night.

11 On Thursday, May 5, 2016, Officer Kimberly
12 Suarez, via e-mail, stated to Investigator Howze
13 that she was not the responding officer but the
14 victim came to the station to make the report.
15 Officer Suarez stated that she did not speak to
16 the ABC manager or owner of the establishment or
17 any other involved parties, just the victim that
18 came to the station. Officer Suarez additionally
19 stated that she did not have any further
20 information to add to her 251 statement that was
21 submitted to ABRA. On Thursday, May 12, 2016,
22 at 10:00 p.m. Investigatory Howze visited El

1 Centro to conduct an interview with ABC Manager
2 Nikolai Dmitri about the incident that happened
3 on March 27th. Mr. Dmitri Gurevitch stated that
4 he didn't see the incident transpire but security
5 guard Marco Costca communicated the incident via
6 walkie talkie to him. Mr. Dmitri stated that a
7 male patron grabbed another male patron's wife
8 inappropriately. He then stated that the female
9 patron's husband punched the male patron in the
10 face and an altercation of pushing and shoving
11 broke out. He stated that security engaged the
12 patrons and escorted both parties out the front
13 door of the establishment and stated to the
14 patrons and to the security that these patrons
15 were not allowed access back into the
16 establishment.

17 It is stated that the parties were escorted
18 out and that they began to fight in front of the
19 establishment leading down to 14th Street.
20 Police -- police and/or ambulance was not called
21 and no one from the establishment made an attempt
22 to call either. He stated that he had nine

1 security guards working that of the incident,
2 three downstairs in the basement dance floor, two
3 out front checking IDs, two in the immediate
4 front as you are walking in the front of the
5 establishment and two security guards on the
6 roof. Each security guard wore black collared
7 shirt with black pants and each was equipped with
8 a radio and flashlight. He stated that each ID
9 was checked thoroughly and you had to be 21 years
10 old -- 21 years age to enter the establishment.
11 Any patrons who were not 21 was not admitted into
12 the establishment. I then told Mr. Dmitri that I
13 already had the incident report and he stated
14 that he didn't have anything else to add to his
15 report. After several attempts from trying to
16 contact the victim that was stated on the 251 and
17 deemed unsuccessful, I was unable to reach the
18 victim by telephone. On Friday, March 13th, at
19 approximately 10:25 p.m., Mr. Joshua Gray
20 submitted to ABRA the surveillance video via e-
21 mail. On Sunday, March 15th, the video was
22 reviewed by Investigator Howze. There were three

1 cameras that were visible: Camera 18 which was
2 the basement of the establishment, directly
3 across from the bar area, and all of this
4 happened at 12:52. Patrons are observed staring
5 in the direction of where the physical
6 altercation is taking place. Unfortunately,
7 camera 18 is unable to capture the incident from
8 this angle. The bartender observed what looks to
9 be security in the direction of where the
10 incident is taking place, three security guards
11 observed walking past the bartender towards the
12 altercation flashing their flashlights. The
13 bartender observed pointing in the direction of
14 the altercation as security walked past.

15 CHAIRPERSON ANDERSON: Can I -- try to get to
16 --

17 MR. ALBERTI: Yeah, I think the chair is --

18 CHAIRPERSON ANDERSON: Yeah, I was trying to
19 get your attention and that we don't necessarily
20 need to go through that portion. It's just to
21 summarize the report. Yeah, that's -- yeah. All
22 right. Officer, I'm sorry, your last name,

1 ma'am?

2 MS. DAVIS: Davis.

3 CHAIRPERSON ANDERSON: Davis. Do you have
4 anything you can add to this incident?

5 MS. DAVIS: I'm also looking at the internal
6 narrative.

7 MR. SILVERSTEIN: Please speak into the
8 microphone.

9 MS. DAVIS: I'm sorry. I'm also looking at
10 the internal narrative that Officer Suarez filled
11 out and she put in there that the victim did go
12 to Nova Hospital in Virginia. He stated he
13 didn't want to do a report because he wanted to
14 go straight to the hospital. She also put in
15 that she notified the dispatcher, Dispatcher
16 #1304 as stated a Mr. Jose placed a call at 0058
17 hours and when the officers got there the
18 disposition was they were all gone on arrival.
19 Additionally, I spoke with the investigators
20 before I came here and Investigator -- I'll spell
21 his last name -- L-E-I-V-A -- spoke to the
22 complainant numerous times as well as the witness

1 and they were not able to provide any additional
2 information. MPD did put out a BOLO on the
3 information that they did originally receive from
4 the original report and the video that was
5 obtained was put on YouTube to see if we could
6 get any information from the community. Right
7 now, there has been negative response from
8 outreach to the community, but the case is still
9 active, even though they don't have any
10 additionally right now.

11 CHAIRPERSON ANDERSON: Thank you very much.
12 Mr. O'Brien, on behalf of your client, who will
13 speak? Will you speak or --

14 MR. O'BRIEN: I will speak.

15 CHAIRPERSON ANDERSON: Okay, go ahead, sir.

16 MR. O'BRIEN: So, if you have any particular
17 questions --

18 CHAIRPERSON ANDERSON: Yes, sir, go ahead.

19 MR. O'BRIEN: I know this is not a formal
20 hearing but I would like to ask a couple
21 questions for clarification of what was just
22 said.

1 CHAIRPERSON ANDERSON: All right.

2 MR. O'BRIEN: First of all, I'm presuming
3 that neither the investigator nor the officer
4 have any personal knowledge of what happened that
5 night. Is that correct?

6 MS. DAVIS: Correct.

7 MR. HOWZE: Correct.

8 MR. O'BRIEN: Okay. Would it be fair to say,
9 Investigator Howze, that the establishment
10 cooperated fully with you in your investigation?

11 MR. HOWZE: I would say yes, correct.

12 MR. O'BRIEN: Okay. You described the
13 business as a nightclub. It is a class CR
14 licensee, is it not?

15 MR. HOWZE: Correct. I said nightclub
16 because that's what was stated in the 251. I,
17 myself, know that it's a CR.

18 MR. O'BRIEN: Okay, and you're aware that
19 it's, for lack of a better word, a real CR that
20 serves a lot of food?

21 MR. HOWZE: Correct.

22 MR. O'BRIEN: Okay.

1 MR. O'BRIEN: You, Investigator Howze,
2 reviewed the video of three different cameras.
3 Speaking of the patron who was bleeding, is it
4 fair to say that what you observed was that he
5 had a bloody nose?

6 MR. HOWZE: It appeared to be blood, yes,
7 sir.

8 MR. O'BRIEN: Okay, but nothing more than a
9 bloody nose.

10 MR. HOWZE: Correct.

11 MR. O'BRIEN: Okay. In summarizing the 251,
12 and you may not know the answer to this question,
13 the second bullet on Page One, list of locations,
14 Victim One reports that upon return from the
15 restroom he observed a fight between two of his
16 friends.

17 MR. HOWZE: Correct.

18 MR. O'BRIEN: Should we infer from that --
19 should the board infer from that -- that this was
20 an intramural fight among people who knew each
21 other as opposed to strangers?

22 MR. HOWZE: We can infer that, correct.

1 CHAIRPERSON ANDERSON: Mr. O'Brien, I think -
2 - one purpose of this fact finding is that,
3 whether or not they knew each other, whether or
4 not they were strangers, is that how did your
5 client respond to what occurred? It's my
6 understanding, and I could be incorrect, that
7 based on -- based on what happened that no one
8 from the establishment contacted the MPD or
9 called 911, and so what I need from your
10 establishment is whether or not that's correct.
11 I mean, I think that's more -- that's more
12 germane to what we want to know. We want to make
13 sure that if an incident occurs in any
14 establishment that what is it that the
15 establishment does? How do they respond to the
16 incident? And I think that's what I more so want
17 to hear from you, rather than whether or not they
18 knew each other or not, it's irrelevant because
19 the incident does occur and what action did your
20 client take to assist in this matter while it
21 occurred, not whether or not. I mean, so, yes
22 you can ask preliminary questions but I mean

1 that's what I think the board wants to hear.

2 MR. O'BRIEN: Very well. To the best of my
3 knowledge no one from the establishment called
4 911. I will tell you -- I should mention this
5 hearing was scheduled on 48 hours notice to us
6 and we were unable to procure the presence of the
7 on duty manager that night who works full time
8 during the day on such short notice. But, to the
9 best of our knowledge, no one called 911 but my
10 understanding is because the extent of the
11 injuries was somebody had a bloody nose, as
12 opposed to more serious injuries.

13 CHAIRPERSON ANDERSON: All right. Are we
14 done asking questions? I mean, I wasn't trying
15 to cut you off.

16 MR. O'BRIEN: What I was trying to establish,
17 it's the same reason that I asked the
18 investigator to concur that this is a real
19 restaurant not a nightclub masquerading -- I'm
20 sorry, not a nightclub masquerading as a CR, this
21 is a real restaurant. In the same vein, I think
22 there's a substantive difference between people

1 who know each other getting into a tussle on one
2 hand, and on the other hand having the kind of
3 place where people come to fight. That's not the
4 case here. I fully recognize you're not as much
5 concerned with what happened as you are with the
6 response of the establishment to what happened,
7 but I'm trying to cast that this is not a trouble
8 spot. And a fight between friends can occur
9 virtually anywhere. But I think those are the
10 rest of my questions. Let me -- actually, one
11 more perhaps. This figure of house camera one,
12 14th Street, on the bottom half of page 3 --

13 MR. HOWZE: Okay.

14 MR. O'BRIEN: -- at 12:55:05, the third entry
15 from the bottom, 'Unidentified male patron is
16 observed walking up to the two male patrons who
17 were walking in the direction of 14th Street and
18 then punches" --

19 MR. HOWZE: Correct.

20 MR. O'BRIEN: That unidentified male -- how
21 did you determine that was a patron also?

22 MR. HOWZE: I seen him leave the

1 establishment with -- he was inside the
2 establishment.

3 MR. O'BRIEN: The one who came back and
4 punched the person?

5 MR. HOWZE: Correct.

6 MR. O'BRIEN: Okay. That answers my question.
7 I think that's all I have for clarification.

8 CHAIRPERSON ANDERSON: All right, thank you.
9 Thank you Mr. O'Brien. Mr. Alberti?

10 MR. ALBERTI: Investigator Howze, thank you
11 for your report. Very thorough, very helpful,
12 thank you. So, if you don't know the answer or
13 are unsure or don't remember what you saw on the
14 video just say so to my question, but you in the
15 summary, about the fourth bullet down, you say
16 "Victim reports that he tried to break up fight
17 and security guard put them all out of the
18 nightclub." And then we see in your report of
19 camera one, the first item 12:54 'the patrons are
20 observed being escorted out of the
21 establishment.' So, from all that you've seen,
22 all that you know, some of it anecdotal, do you

1 believe that all of the patrons who were involved
2 in the fight were escorted out at the same time?
3 Yes or no?

4 MR. HOWZE: Yes.

5 MR. ALBERTI: Okay, so it appears to you. Is
6 that clear from the camera footage?

7 MR. HOWZE: It's very clear that each party
8 was escorted out the front of the establishment.

9 MR. ALBERTI: What do you mean each party?
10 The two parties involved in the altercation?

11 MR. HOWZE: Right.

12 MR. ALBERTI: Were put out at the same time?

13 MR. HOWZE: Yes.

14 MR. ALBERTI: Okay, I'm just going to put it
15 out to you, that's of concern to me. That's not
16 very good policy.

17 MR. O'BRIEN: Right and we recognize that.

18 MR. ALBERTI: Okay, that's why I asked that
19 question.

20 MR. O'BRIEN: Because we discussed that at
21 length --

22 MR. ALBERTI: Okay.

1 MR. O'BRIEN: -- before this hearing.

2 MR. ALBERTI: All right. So, I'm going to
3 ask -- as you saw the video and this goes to Mr.
4 O'Brien's questions, I'm going to come at it from
5 a different direction. Did it occur to you that
6 the security, when they came to break it up
7 recognized that there was an altercation? Or
8 that it was just maybe, "oh, somebody
9 accidentally bumped into someone." I mean, what
10 was your impression of what the security guards
11 were reacting to?

12 MR. HOWZE: I think that they had an idea
13 that it was an altercation. By the time they got
14 there it was sort of dying down.

15 MR. ALBERTI: Okay.

16 MR. HOWZE: And they made contact with the
17 guy whose nose was obviously bleeding.

18 MR. ALBERTI: Did they make contact with the
19 guy who did the head butting as well as the guy
20 who got his nose bloodied?

21 MR. HOWZE: I'm not sure.

22 MR. ALBERTI: You're not sure? Okay.

1 MR. HOWZE: I can't remember. Can't recall.

2 MR. ALBERTI: I have no further questions,
3 thank you.

4 MR. O'BRIEN: May I speak to his question?

5 CHAIRPERSON ANDERSON: Yes.

6 MR. O'BRIEN: There's no question it was an
7 altercation. I don't mean to -- I didn't mean to
8 suggest that he might have sneezed too hard and
9 therefore his nose was bleeding.

10 MR. ALBERTI: I agree.

11 MR. O'BRIEN: What I was -- the point I was
12 making was the injury, since it appeared to be
13 nothing more than a bloody nose, did not appear
14 to be of sufficient severity that calling 911 was
15 warranted.

16 MR. ALBERTI: I hear you on that but I'm
17 still concerned about putting everyone out at the
18 same time.

19 MR. O'BRIEN: Oh, no, no that --

20 MR. ALBERTI: Regardless of whether you
21 needed to call 911 or not, that's -- all right.

22 MR. O'BRIEN: That's a separate issue,

1 putting them both out, and that point is taken
2 and has been the subject of intense discussion in
3 the last 48 hours.

4 MR. ALBERTI: Thank you. I won't belabor it.
5 Thank you.

6 MR. O'BRIEN: Thank you, sir.

7 MR. SHORT: Mr. Chair?

8 CHAIRPERSON ANDERSON: Mr. Short?

9 MR. SHORT: Good afternoon, sir.

10 MR. O'BRIEN: Good afternoon, Mr. Short, how
11 are you?

12 MR. SHORT: Always glad to see you. Let's --
13 the medical issue and liability. By looking at
14 someone can you tell if they have a concussion?

15 MR. O'BRIEN: I can't.

16 MR. SHORT: The average person can't because
17 it takes a doctor or a visit to the emergency
18 room to find out. Someone medically has to look
19 at it. And that goes to liability for the club
20 owner. I mean, the restaurant owner. I would
21 think for the sake of caution always call 911
22 because the bottom line is if that person that

1 left, in between that establishment and Virginia
2 had collapsed or, God forbid, something worse,
3 luckily nothing did. Then people in the family
4 would want to know and you know, as an attorney,
5 people want to know what precautions did the
6 business take knowing that this person was
7 injured? Even if the person refused to go or
8 even if the person elects not to go in the
9 ambulance if it gets there, they've done their
10 part. And I would think that it's part of a good
11 business, and I understand that El Centro is a
12 good business, that they would have a plan in
13 place in case something did occur and somebody is
14 injured. Is there a plan of any type in the
15 establishment -- what to do with injured person?

16 MR. O'BRIEN: Not a written one.

17 MR. SHORT: Okay, do you think it might be a
18 good idea if they did have a written one?

19 MR. O'BRIEN: I think it would be a good
20 idea, certainly, if they clarified and locked in
21 several procedures, one of which is you don't put
22 warring factions out at the same time in the

1 street. Another might be, if for no reason other
2 than protection of the establishment from
3 liability, where you have somebody bleeding as a
4 result of an altercation, it probably would be
5 prudent to call 911.

6 MR. SHORT: Thank you for your
7 straightforward answers.

8 MR. O'BRIEN: I think that's constructive
9 criticism.

10 MR. SHORT: Okay.

11 MR. O'BRIEN: -- and we appreciate it.

12 MR. SHORT: All right, that's all I have, Mr.
13 Chair.

14 CHAIRPERSON ANDERSON: Do we have any other
15 questions by any other board members? Yes, Mr.
16 Silverstein?

17 MR. SILVERSTEIN: Just very briefly, Mr.
18 O'Brien, I -- speaking for myself I've no
19 question this is a legit restaurant and that's
20 what you do to keep yourself going, that it's not
21 masquerading as a club or anything of that sort,
22 but the response to this was far short of what

1 should have been and I hope that you -- that our
2 concerns more than anything was response. Bad
3 things can happen anywhere and the issue is not
4 that somebody gets into a place and does
5 something wrong or something stupid, the issue is
6 that the establishment is prepared for that and
7 the establishment responds correctly so that the
8 problem does not escalate or so that it's not
9 dumped out into the street where it's somebody
10 else's problem. Nothing further.

11 MR. O'BRIEN: Lessons have been learned from
12 this.

13 CHAIRPERSON ANDERSON: Thank you, Mr.
14 Silverstein. Any other questions by any other
15 board members? Officer, Green?

16 MS. DAVIS: Davis.

17 CHAIRPERSON ANDERSON: Davis. Officer Davis,
18 do you have any final thoughts you want to make?

19 MS. DAVIS: No.

20 CHAIRPERSON ANDERSON: Thank you. Mr. Howze?

21 MR. HOWZE: No, I'm good.

22 CHAIRPERSON ANDERSON: No? Mr. O'Brien do

1 you have a final word? Nothing, no final say?
2 Thank you very much for appearing here today. We
3 will take this matter under advisement and see if
4 there's anything that -- any suggestions or
5 recommendations the board will make, but you will
6 know whether or not what we decide to do. We'll
7 discuss it and figure out whether or not it will
8 an essay or if we think that the club should have
9 done something. I'm sorry, I apologize, the
10 restaurant should have done something else. All
11 right?

12 MR. O'BRIEN: Very well.

13 CHAIRPERSON ANDERSON: All right. Yes,
14 Officer Davis?

15 MS. DAVIS: I am supposed to take information
16 back to my officials, how long does it normally
17 take -- because I've never done this before --
18 for you to come back with a determination -- what
19 should I?

20 CHAIRPERSON ANDERSON: We'll probably issue -
21 - probably it'll be -- issue a report out
22 tomorrow, what we're going to do, whether or not

1 it's going to be no further action or whether or
2 not the board will refer this matter over to the
3 attorney general's office for show cause, but
4 those are the options that the board will have
5 and I suppose that when these decisions are
6 issued by -- I think tomorrow -- when the ABRA
7 decisions are issued tomorrow -- you'll see. It
8 will be reported what the recommendation from the
9 board regarding this matter.

10 MS. DAVIS: Does it go to my commander or the
11 chief, do you know?

12 CHAIRPERSON ANDERSON: It's public
13 information that's on ABRA's -- but I mean, your
14 counsel can provide you that information once we
15 --

16 MR. ALBERTI: Yeah, we have --

17 CHAIRPERSON ANDERSON: You can give her your
18 card and we'll make sure that they can -- since
19 Ms. Jenkins she'll give you -- we'll make sure
20 that she'll report to you what the decision of
21 the board is but this will be reported out in our
22 -- I think as soon as the decisions come out --

1 tomorrow?

2 Usually by the end of the day. Once in a
3 while it's Friday morning, but usually by the end
4 of the day.

5 MR. ALBERTI: We can have our general counsel
6 contact you.

7 MS. DAVIS: Okay.

8 MR. ALBERTI: If she doesn't call her or e-
9 mail her.

10 MS. DAVIS: Okay.

11 MR. ALBERTI: But she's going to give you her
12 card.

13 MS. DAVIS: Thank you.

14 MR. SHORT: Thank you, officer for your time,
15 and thank you Mr. Howze for your report.

16 CHAIRPERSON ANDERSON: Thank you, Mr.
17 O'Brien. And thanks to the establishment for
18 being here today. (Whereupon, the above-entitled
19 matter was concluded.)

20